

DISCUSSION SUMMARY

Applicants would like to express appreciation to the Examiner for the telephone discussion of August 4, 2008. During the discussion, the undersigned representative and the Examiner discussed the multiplicity rejection under 35 U.S.C. § 112. Specifically, the undersigned noted that, in accordance with MPEP 2173.05(n), cited by the Examiner, a multiplicity rejection may be appropriate when “applicant presents an unreasonable number of claims which ** are repetitious and multiplied, the net result of which is to confuse rather than to clarify;” however, the Examiner has rejected only a single claim as being multiplicitous. Therefore, and because the right of applicants to freedom of choice in selecting phraseology which truly points out and defines their inventions should not be abridged, the undersigned noted that such a rejection is improper. In view of the foregoing argument, the Examiner agreed to withdraw the multiplicity rejection under 35 U.S.C. § 112, upon submission of a Response to the outstanding Final Official Action.

REMARKS

Applicants would like to express appreciation to the Examiner for the detailed Official Action provided. Upon entry of the present paper, claims 1, 8 and 9 will have been amended, and claims 10-11 will have been added. Claims 1-2, 5 and 8-11 are pending before the Examiner.

Election/Restriction

The Examiner has withdrawn newly-submitted claims 8-9 from consideration, asserting that the claimed process “can be practiced by another and materially different apparatus, such as on [sic, one] in which the order from the upstream side of an exhaust gas flow direction is not a nonleak-type gas-gas heater heat recovery unit, an absorption tower, a mist eliminator and a nonleak-type GGH reheat. The Examiner further asserted that no “method of processing” was claimed in the application as originally examined.

Without agreeing to the propriety of the Examiner’s determination, Applicants have amended withdrawn claims 8-9 to each recite, *e.g.*, “a method for processing using an effluent exhaust gas processing device . . .”, to specify the order of processing, and to respectively generally include the limitations of originally-presented and already-examined claims 1+6 and 3+7. No new matter has been added. Applicants thus respectfully request that withdrawn claims 8-9 be rejoined, examined and allowed.

Rejections under 35 U.S.C. §112

The Examiner rejected claim 1-2 and 5 under 35 U.S.C. § 112, second paragraph, finding that the phrase in claim 1 “consisting of one or more of” to be contradictory. Without agreeing to the propriety of the Examiner’s rejections and solely in order to expedite the patent application process, Applicants have elected to amend claim 1 to recite ---the heat suppression device ~~consisting of~~ comprising one or more of the following configurations---, and respectfully request that the Examiner withdraw this rejection.

The Examiner has also rejected claim 1 under 35 U.S.C. § 112, as being multiplicitous. As discussed above, because the right of applicants to freedom of choice in selecting phraseology which truly points out and defines their inventions should not be abridged and because the Examiner has rejected only a single claim as being multiplicitous, this rejection is inappropriate and should be withdrawn. Further, without agreeing to the propriety of the Examiner’s rejections and solely in order to expedite the patent application process, Applicants have elected to amend claim 1 to delete alternative limitation (c) and re-present this limitation in newly-added dependent claims 10-11. No new matter has been added.

The Examiner found that certain terms, *e.g.*, the term “the . . . nonleak-type gas-gas heater reheat^{er}” lacks antecedent basis.¹ Applicants respectfully traverse the Examiner’s rejection, and note that one skilled in the art would readily understand that GGH means “gas-gas heater” and as well as that, *e.g.*, “the heat recovery unit” refers to the “nonleak-type gas-gas heater heat recovery unit” (since it is the only heat recovery

¹ Applicants note that contrary to the Examiner’s assertion, applicant has not claimed a “gas-gas heater heater.”

unit claimed). Nevertheless, without agreeing to the propriety of this rejection and solely to expedite the patent application process, Applicants have clarifyingly amended the heater and heat recovery unit limitations by rendering explicit what was already implied by these limitations.

It is thus respectfully asserted that claim 1, and claims 2 and 5 dependent therefrom, are patentable at least under 35 U.S.C. § 112.

Rejections under 35 U.S.C. § 103

The Examiner has rejected claims 1 under 35 U.S.C. § 103(a) as being unpatentable over Japanese Laid-Open Publication No. 10-038413 (KATSUBE, discussed beginning page 1 of Applicants' specification) in view of U.S. Patent No. 6,203,598 (HASEGAWA). Specifically, the Examiner has found that KATSUBE discloses, *inter alia*, claimed configuration (c); however, Applicants note that neither KATSUBE, nor any of the other references of record, discloses or renders obvious claimed configurations (a) and/or (b). Nor has the Examiner asserted that any of the references of record disclose or render obvious claimed configurations (a) and/or (b). In this regard, without agreeing with the propriety of the Examiner's rejection and solely to expedite the patent examination process, Applicants have amended claim 1 to delete configuration (c) therefrom. Applicants have re-presented the canceled subject matter of configuration (c) as new dependent claim 10 (dependent from claim 1) and new dependent claim 11 (dependent from claim 2). Thus, since none of the references teaches or renders obvious at least the subject matter recited in configurations (a) and/or (b), Applicants assert that claim 1 (and the claims dependent therefrom) is patentable and

respectfully request that the Examiner withdraw the rejection of claim 1 under 35 U.S.C. § 103(a).

The Examiner has rejected claim 2 under 35 U.S.C. § 103(a) as being unpatentable over KATSUBE in view of HASEGAWA in further view of JP 05-293335 (SHIGAKI); and has rejected claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Japanese KATSUBE in view of HASEGAWA and in view of SHIGAKI, and in further view of U.S. Patent No. 6,506,348 (OCHI). With respect to rejected dependent claims 2 and 5, as these claims (as well as newly-added dependent claims 10-11) are dependent from allowable independent claim 1, which is allowable for at least the reasons discussed *supra*, these dependent claims (as well as newly-added dependent claims 10-11) are also allowable for at least these reasons. Further, all dependent claims recite additional features which further define the present invention over the references of record. It is thus respectfully submitted that all pending claims are patentable over the references of record. Applicants thus respectfully request reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. § 103(a), and an early indication of the allowance of all pending claims.

Applicants note that the status of the present application is after final rejection and that once a final rejection has issued, an Applicant does not have a right to amend an application. Nevertheless, in the present situation, Applicants respectfully submit that entry of the present amendment is appropriate and proper and in full compliance with 37 C.F.R. § 1.116. In this regard, Applicants note that they are merely explicitly rendering what was already implied in the claims or are merely presenting subject matter presumably already examined by the Examiner (as described *supra*). Accordingly,

Applicants respectfully submit that the present amendment raises no issues requiring further consideration or search and thus should be entered by the Examiner.

SUMMARY AND CONCLUSION

In view of the fact that none of the art of record, whether considered alone, or in any proper combination thereof, discloses or otherwise renders unpatentable the present invention, reconsideration of the Examiner's action and allowance of the present application are respectfully requested and are believed to be appropriate.

Applicants note that this amendment is being made to advance prosecution of the application to allowance, and no acquiescence as to the propriety of the Examiner's rejection is made by the present amendment. The amendment to claim 1 has not been made for a purpose related to patentability, but rather (as discussed *supra*) is a clarifying amendment that is cosmetic in nature by rendering explicit what was already implied in this claim. Further, the amendments to claims 8-9 have not been made to overcome a rejection over the prior art. The amendment to the claims should thus be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto. Accordingly, this amendment should not be considered a decision by Applicants to narrow the claims in any way.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
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